



DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
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WASHINGTON NAVY YARD DC 20374

IN REPLY REFER TO:

5720

Ser 14/360

August 6, 2015

Professor Richard Steiner

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SUBJECT: FREEDOM OF INFORMATION ACT APPEAL DON-NAVY-2015-007567

This responds to your Freedom of Information Act (FOIA) appeal that was received via e-mail in our office July 13, 2015. In your appeal, you challenge United States Pacific Fleet's (PACFLT's) denial of your June 25, 2015 FOIA request for information regarding marine mammal impacts during the Northern Edge 2015 training exercises.

Your appeal is a request for a final determination under the FOIA. After thoroughly reviewing your letter and the circumstances surrounding your appeal and contacting PACFLT, I grant your appeal.

I find that PACFLT's response that the information you requested "is not available at this time" to be inadequate. While one part of the response suggests PACFLT has no responsive records, another portion suggests they do have records and are compiling them into a final report to the National Marine Fisheries Service. Therefore, by copy of this letter, I am remanding this request back to PACFLT and asking that they either clearly state that a reasonable search was conducted and no responsive records were found or that such records do exist. If such records exist, PACFLT should either release them or cite appropriate exemptions for withholding, ensuring that all reasonably segregable information is released. You have the right to appeal whatever response they provide in response to this remand to this office within 60 days of their response.

Given that the training exercise concluded only on June 26, 2015, and many vessels were involved in this exercise, I caution you that even with extreme diligence PACFLT may not be able to respond within the 20 day time limit. I am encouraging PACFLT to keep you updated as the remand is processed and to contact you if they feel the remand is too voluminous to complete in the normal time limit; they may need to extend the deadline under the "unusual circumstances" test, although if so they will still be required to provide you with an estimated timeframe for completion.

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As the Department of the Navy's designated adjudication official for FOIA appeals, I am responsible for this final decision. You may seek judicial review of this decision. If you have any questions regarding this case, please contact Lieutenant (b) (6) USN, who may be reached at (b) (6) @navy.mil or (b) (6)

Sincerely,

(b) (6)

G. E. Lattin
Director
General Litigation Division

Copy to:
DNS-36
PACFLT
THIRD Fleet